

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

UNITED STATES OF AMERICA)
)
) Case No. 3:93CR00010
)
)
v.) **OPINION**
)
)
OBED RAHEEM HOYTE,) By: James P. Jones
) United States District Judge
Defendant.)

Obed Raheem Hoyte, Pro Se Defendant.

Obed Raheem Hoyte, proceeding pro se, submits what he styles as a “MOTION FOR DECLARATORY JUDGMENT,” in which he asks the court to declare that 21 U.S.C. § 841(b)(1)(A) as applied in his case is unconstitutionally broad. Based on Hoyte’s challenge to the validity of his conviction, the court docketed his submission as a Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255. After review of the motion and the record, I find that the submission was properly construed as a § 2255 motion and must be summarily dismissed as successive under § 2255(h).¹

Hoyte offers no authority other than § 2255 on which his current challenge to the validity of his conviction under § 841 could be addressed. As Hoyte

¹ Under Rule 4 of the Rules Governing § 2255 Proceedings, the court may summarily dismiss a § 2255 motion where “it plainly appears from the motion, any attached exhibits, and the record of prior proceedings” that the defendant is not entitled to relief.

previously utilized his opportunity to pursue claims under § 2255, *Hoyte v. United States*, Case No. 7:06CV00078, 2006 WL 2375526 (W.D. Va. Aug. 16, 2006), I find that his current claims are successive. This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. *See* § 2255(h). Hoyte offers no indication that he has obtained certification from the court of appeals to file a second or successive § 2255 motion. Therefore, I must dismiss his current action without prejudice.

A separate Final Order will be entered herewith.

DATED: March 13, 2014

/s/ James P. Jones
United States District Judge